Falls Church, VA Chesapeake Bay TMDL Public Meeting Summary

December 14, 2009

Falls Church High School
7521 Jaguar Trail
Falls Church, VA 22042

Agenda

- **Welcome, introductions, and meeting logistics – John Kennedy, VADEQ (5 minutes)**
- **EPA presentation on the Chesapeake Bay TMDL and EPA expectations – Richard Batiuk and Bob Koroncai, EPA (40 minutes)**
- **Next steps – Russ Perkinson, VADCR (15 minutes)**
- **Public comments, questions and answers – Panel moderated by John Kennedy (60 minutes)**
- **Adjourn**

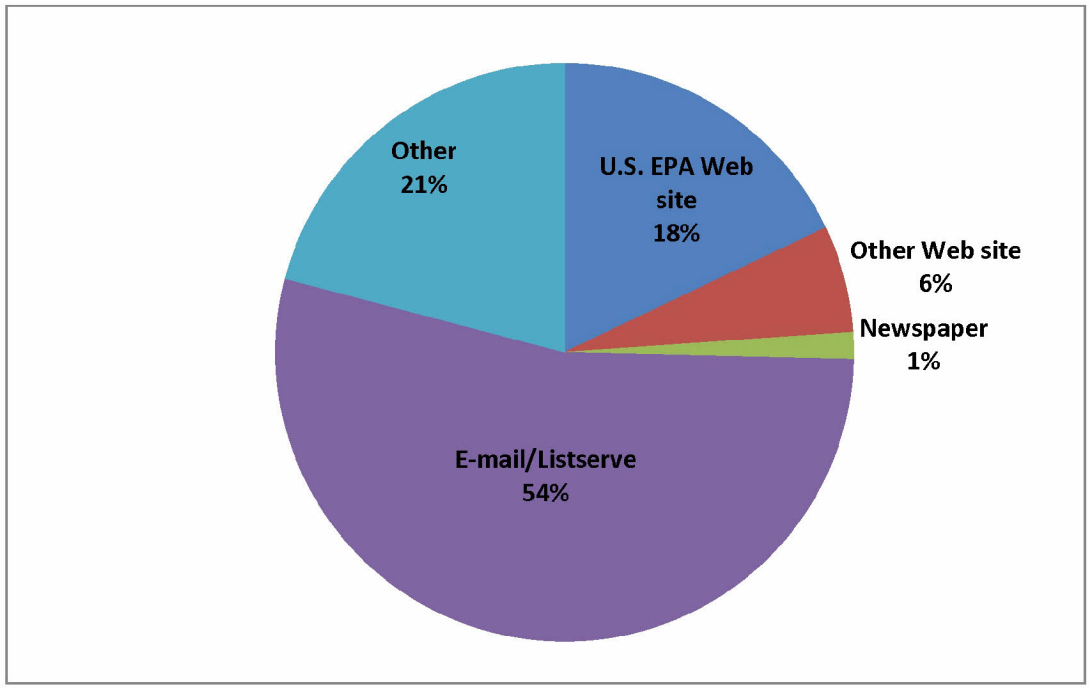
Attendee Detail

Total Attendees: 80

Registration Question:

How did you hear about this Meeting?

- E-mail/Listserve (36)
- Other (14)
  - Word of mouth (2)
  - VAMWA
  - Farm Bureau Government Relations Department
  - Coalition
- U. S. EPA Web Site (12)
- Other Web Site _____ (4)
  - VA DEQ
- Newspaper (1)



THE CHESAPEAKE BAY TMDL: Restoring Waters of Virginia and the Chesapeake Bay

Bay TMDL Public Meeting
December 14, 2009
Falls Church, VA

Richard Batiuk and Bob Koroncai
U.S. EPA Region III

AGENDA

- Welcome, introductions, and meeting logistics – **John Kennedy, VADEQ (5 minutes)**
- EPA presentation on the Chesapeake Bay TMDL and EPA expectations – **Richard Batiuk and Bob Koroncai, EPA (40 minutes)**
- Next Steps – **Russ Perkinson, VADCR (15 minutes)**
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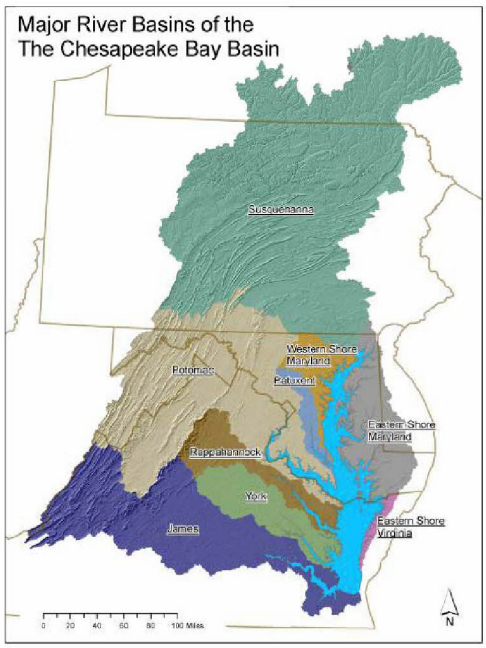
Panel to Address Public Comments

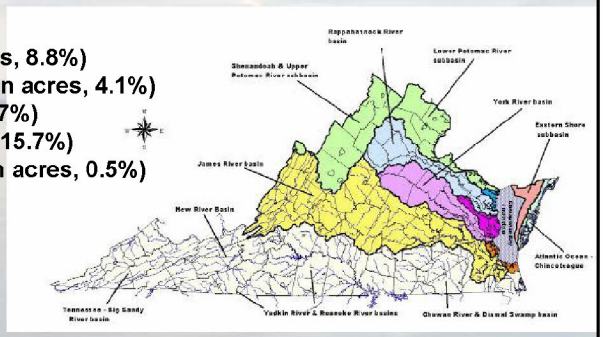
- VA Department of Environmental Quality: John Kennedy, Moderator
- EPA: Richard Batiuk
- EPA: Bob Koroncai
- VA Department of Conservation and Recreation: Russ Perkinson

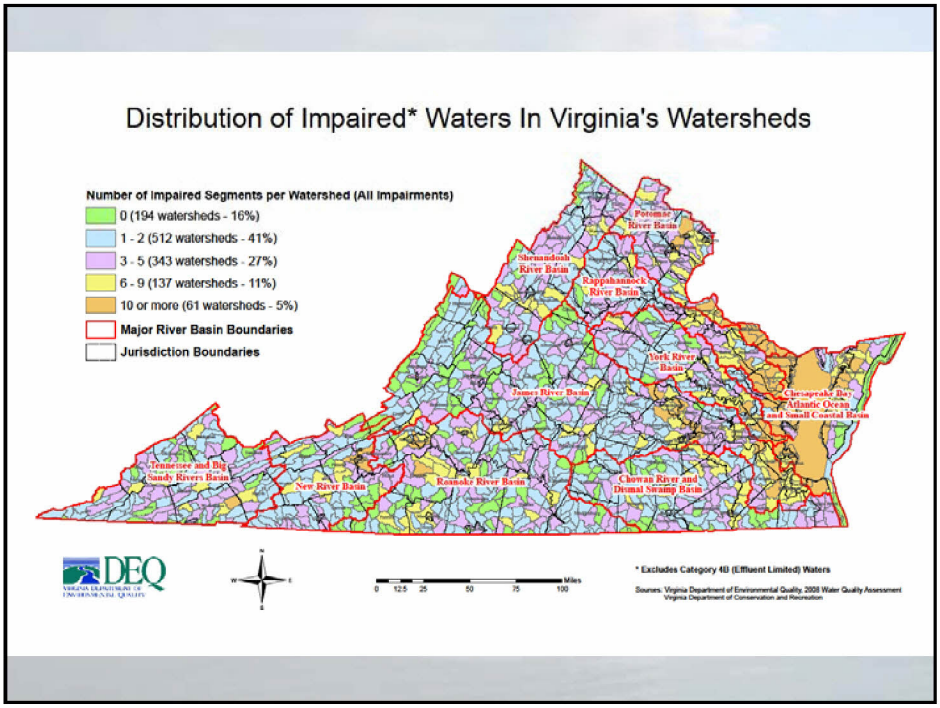


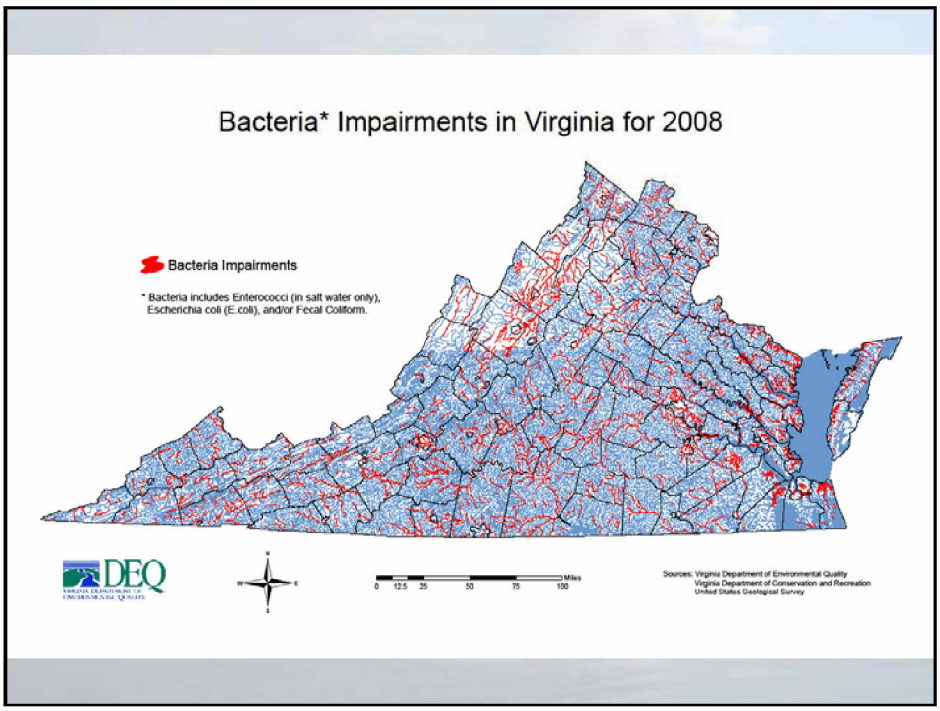
Local Water Quality Issues

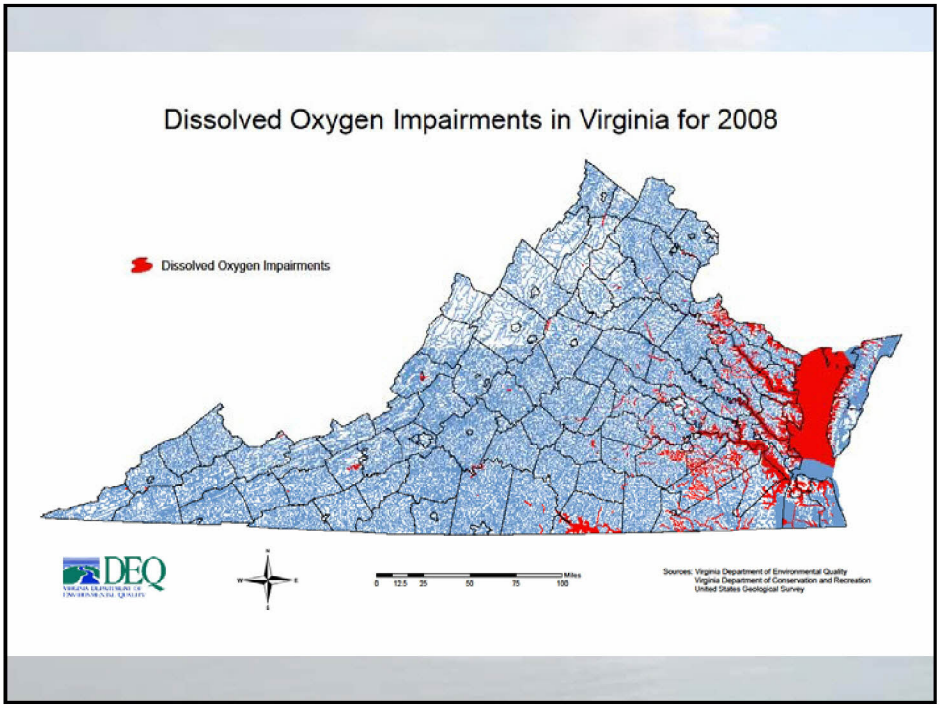
Virginia's Chesapeake Bay Watershed River Basins

- About 34% of the Bay watershed is within Virginia - over 13.8 million acres
- Over 50% of Virginia drains to the Bay
- Five VA River Basins:
  - Potomac (3.6 million acres, 8.8%)
  - Rappahannock (1.7 million acres, 4.1%)
  - York (1.9 million acres, 4.7%)
  - James (6.4 million acres, 15.7%)
  - Eastern Shore (0.2 million acres, 0.5%)
- Virginia Land Uses
  - Agriculture – 22%
  - Urban – 12 %
  - Forest – 66%



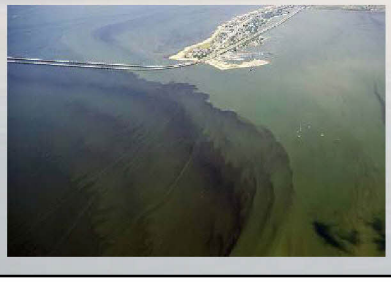

Distribution of Impaired* Waters In Virginia's Watersheds
Number of Impaired Segments per Watershed (All Impairments)
0 (194 watersheds - 16%)
1 - 2 (512 watersheds - 41%)
3 - 5 (343 watersheds - 27%)
6 - 9 (137 watersheds - 11%)
10 or more (61 watersheds - 5%)
Major River Basin Boundaries
Jurisdiction Boundaries
Potomac River Basin
Shenandoah River Basin
Rappahannock River Basin
York River Basin
James River Basin
Chesapeake Bay, Atlantic Ocean and Small Coastal Basin
Tennessee and Big Sandy Rivers Basin
New River Basin
Roanoke River Basin
Chowan River and Dismal Swamp Basin
DEQ
0 12.5 25 50 75 100 Miles
* Excludes Category 4B (Effluent Limited) Waters
Sources: Virginia Department of Environmental Quality 2008 Water Quality Assessment
Virginia Department of Conservation and Recreation

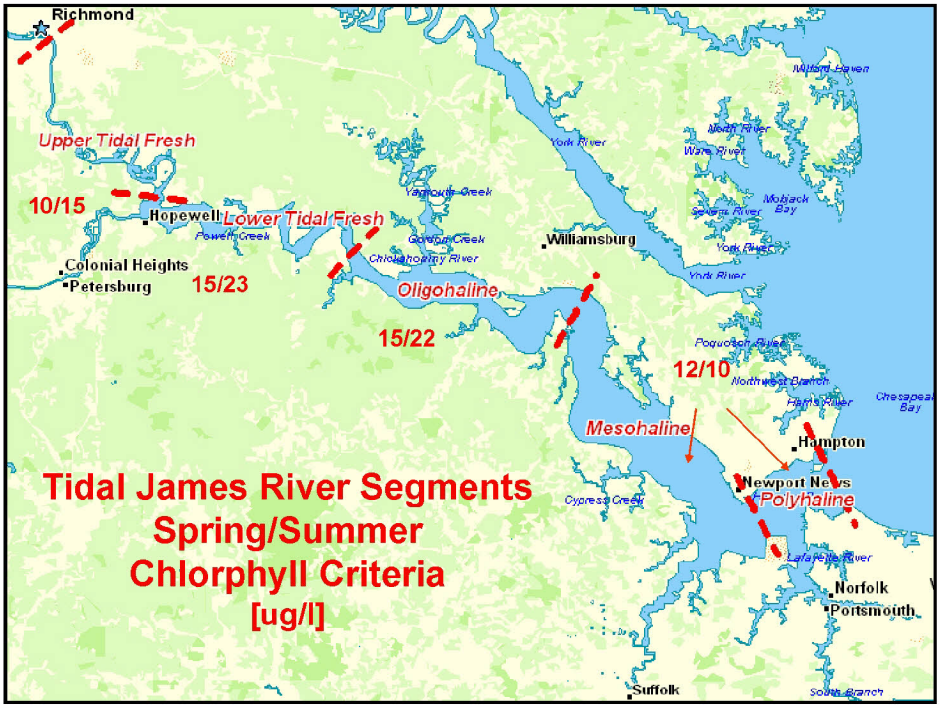

Bacteria* Impairments in Virginia for 2008
Bacteria Impairments
* Bacteria includes Enterococci (in salt water only), Escherichia coli (E.coli), and/or Fecal Coliform.
DEQ
0 12.5 25 50 75 100 Miles
Sources: Virginia Department of Environmental Quality
Virginia Department of Conservation and Recreation
United States Geological Survey



Special Case: James River

- The dissolved oxygen standards in the Bay and its tidal rivers are the basis for the working nutrient target loads being used to develop Watershed Implementation Plans in each Virginia river basin.
- However, the target loads in the James basin do not yet account for what will be needed to also meet the chlorophyll standards, which were adopted due to high algae levels in the tidal James River.





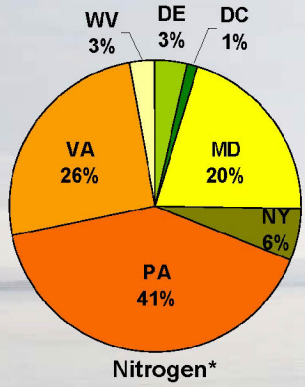
Chesapeake Bay
Water Quality Issues

Chesapeake Bay Watershed-
By the Numbers

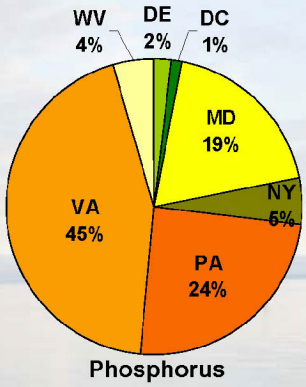
- Largest U.S. estuary
- Six-states and DC, 64,000 square mile watershed
- 10,000 miles of shoreline (longer then entire U.S. west coast)
- Over 3,600 species of plants, fish and other animals
- Average depth: 21 feet
- $750 million contribution annually to local economies
- Home to 17 million people (and counting)
- 77,000 principally family farms
- Declared "national treasure" by President Obama

Source: www.chesapeakebay.net

Nutrient Loads by State



Nitrogen*

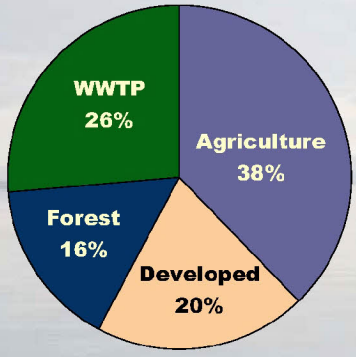


Phosphorus

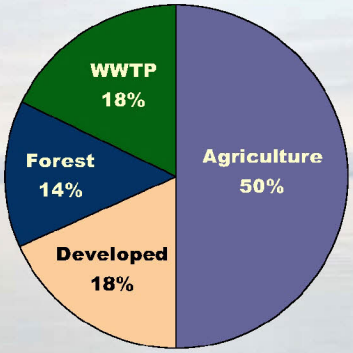
*EPA estimates a nitrogen load of 284 million lbs nitrogen in 2008. EPA assumes a reduction of 7 million lbs due to the Clean Air Act. This leaves 77 millions lbs to be addressed through the TMDL process.

Nutrient Sources of VA

Sources of Nitrogen from Virginia

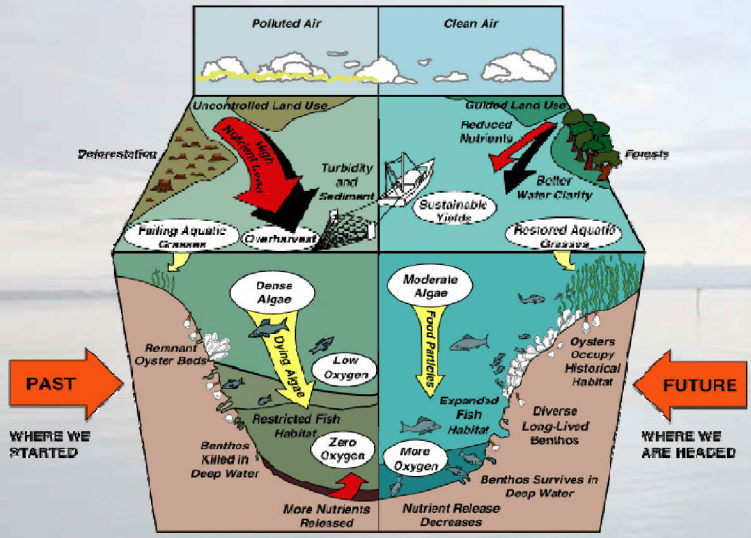


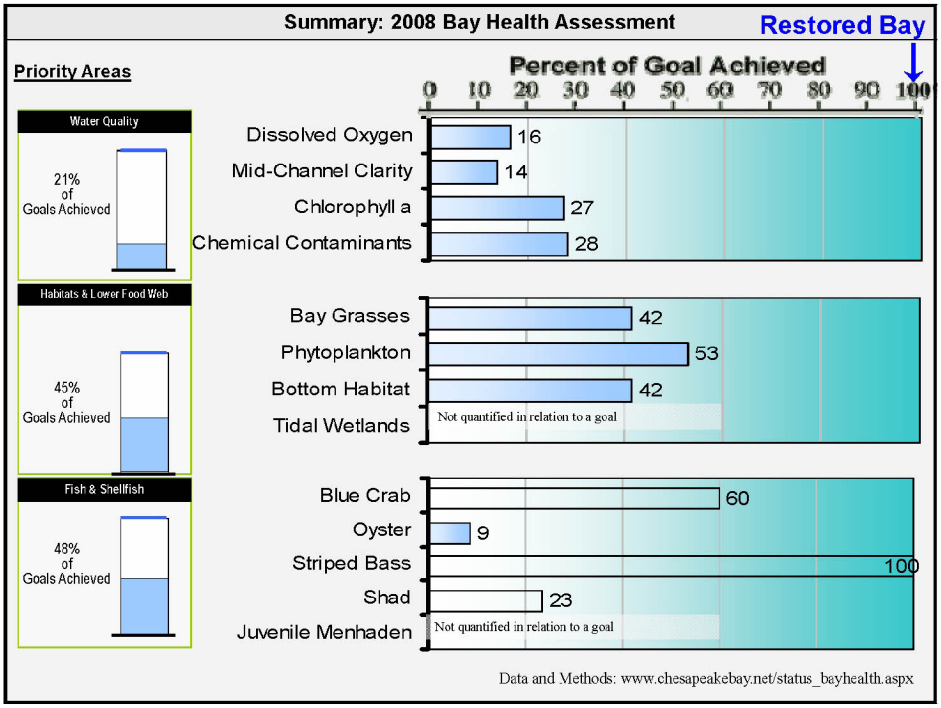
Sources of Phosphorus from Virginia

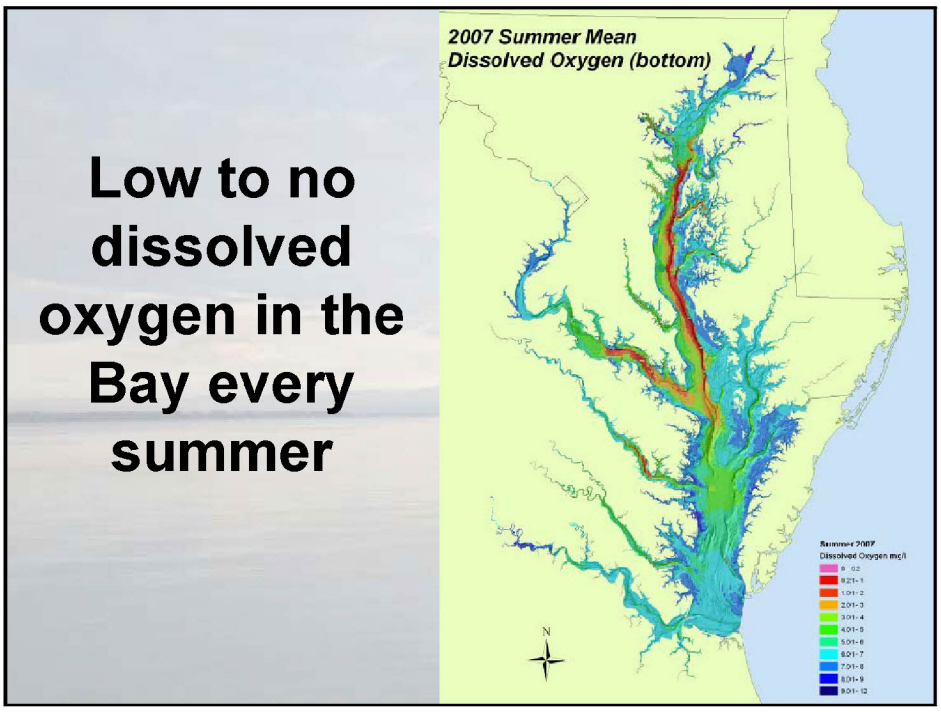


N and P values from 2008 Scenario of Phase 5.2 Watershed Model

Chesapeake Bay Health- Past and Future

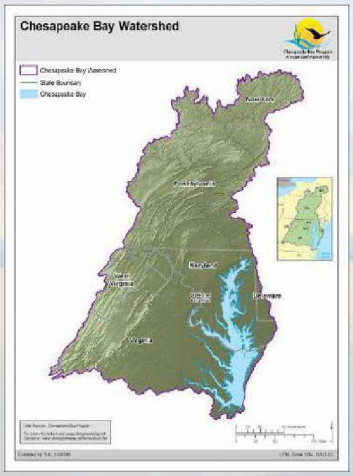



Summary: 2008 Bay Health Assessment
Restored Bay
Priority Areas
Percent of Goal Achieved
0 10 20 30 40 50 60 70 80 90 100
Water Quality
21% of Goals Achieved
Dissolved Oxygen 16
Mid-Channel Clarity 14
Chlorophyll a 27
Chemical Contaminants 28
Habitats & Lower Food Web
45% of Goals Achieved
Bay Grasses 42
Phytoplankton 53
Bottom Habitat 42
Tidal Wetlands
Not quantified in relation to a goal
Fish & Shellfish
48% of Goals Achieved
Blue Crab 60
Oyster 9
Striped Bass 100
Shad 23
Juvenile Menhaden
Not quantified in relation to a goal
Data and Methods: www.chesapeakebay.net/status_bayhealth.aspx

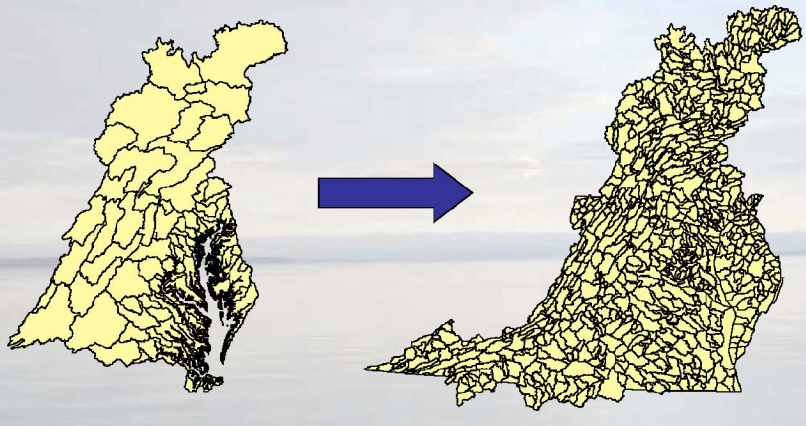

Low to no dissolved oxygen in the Bay every summer
2007 Summer Mean
Dissolved Oxygen (bottom)
N

The Chesapeake Bay TMDL

- EPA sets pollution diet to meet states' Bay clean water standards
- Caps on nitrogen, phosphorus and sediment loads for all 6 Bay watershed states and DC
- States set load caps for point and non-point sources



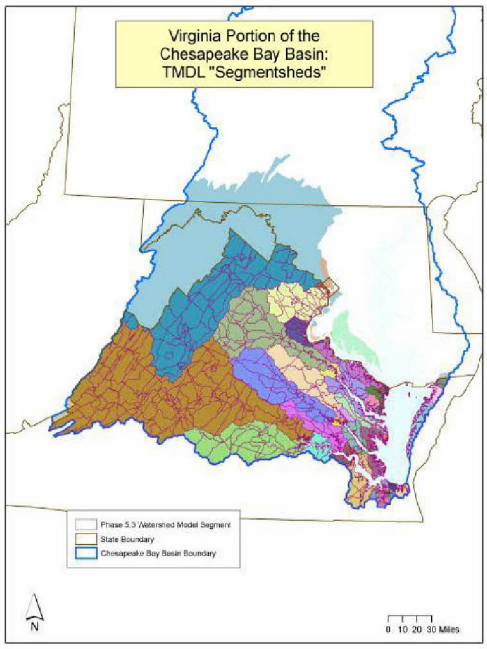
The Bay science supports local pollution diets…



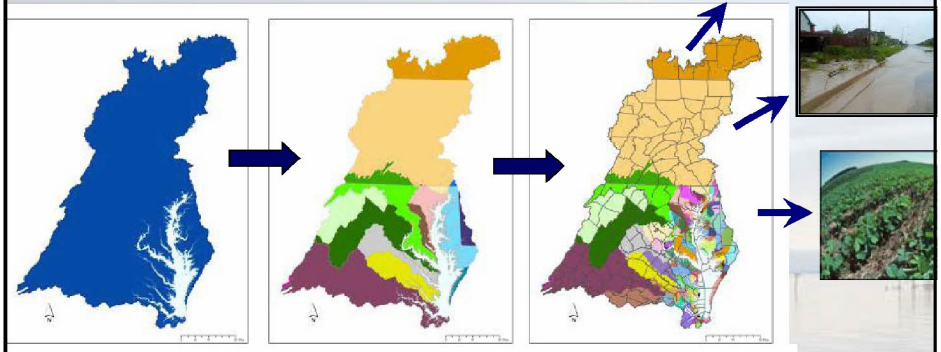
Phase 4 Bay Watershed Model
(2000-2008)

Phase 5 Bay Watershed Model
(2009-)

…with detailed representation of VA's local watersheds



Taking Responsibility for Load Reductions



Identify basinwide target loads	Identify major basin by jurisdiction target loads	Identify tidal segment watershed, county and source sector target loads
EPA, States, DC	EPA, States, DC	States, DC, local governments & local partners

What are the Target Pollutant Cap Loads for the Bay Watershed?

Current model estimates are that the states' Bay water quality standards can be met at basinwide loading levels of:

- 200 million pounds nitrogen per year
- 15 million pounds phosphorus per year

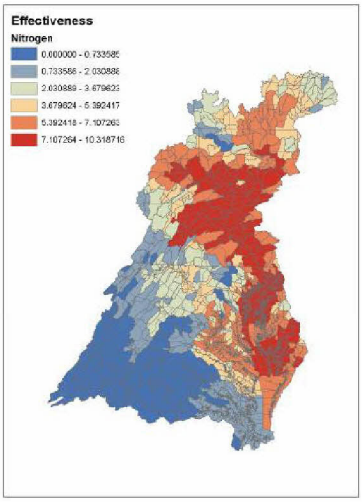
(Sediment target cap load under development-will be available by spring 2010)

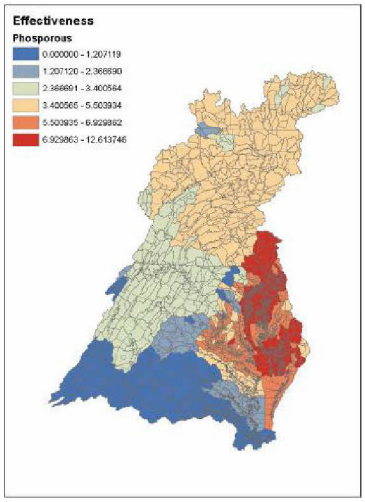
Dividing the Basinwide Target Loading

Guidelines for Distributing the Basinwide Target Loads

- Water quality and living resource goals should be achieved.
- Waters that contribute the most to the problem should achieve the most reductions (on a per pound basis).
- All previous reductions in nutrient loads are credited toward achieving final cap loads.

Nutrient Impacts on Bay WQ





Current State Target Loads

Nitrogen

State	Tributary Strategy	Target Load
DC	2.12	2.37
DE	6.43	5.25
MD	42.37	41.04
NY	8.68	10.54
PA	73.48	73.64
VA	56.75	59.21
WV	5.93	5.71
Total	195.75	197.76

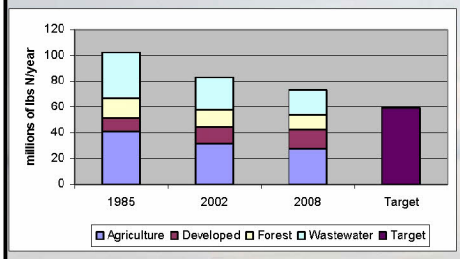
Phosphorus

State	Tributary Strategy	Target Load
DC	0.10	0.13
DE	0.25	0.28
MD	2.54	3.04
NY	0.56	0.56
PA	3.10	3.16
VA	6.41	7.05
WV	0.43	0.62
Total	13.39	14.84

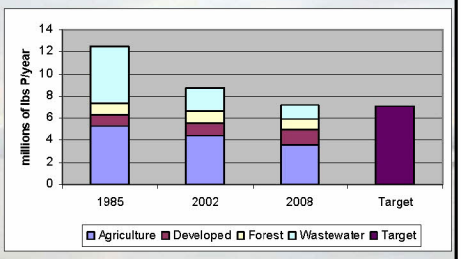
All loads are in millions of pounds per year.

Virginia's Past, Present and Future Estimated Loads

Nitrogen



Phosphorus

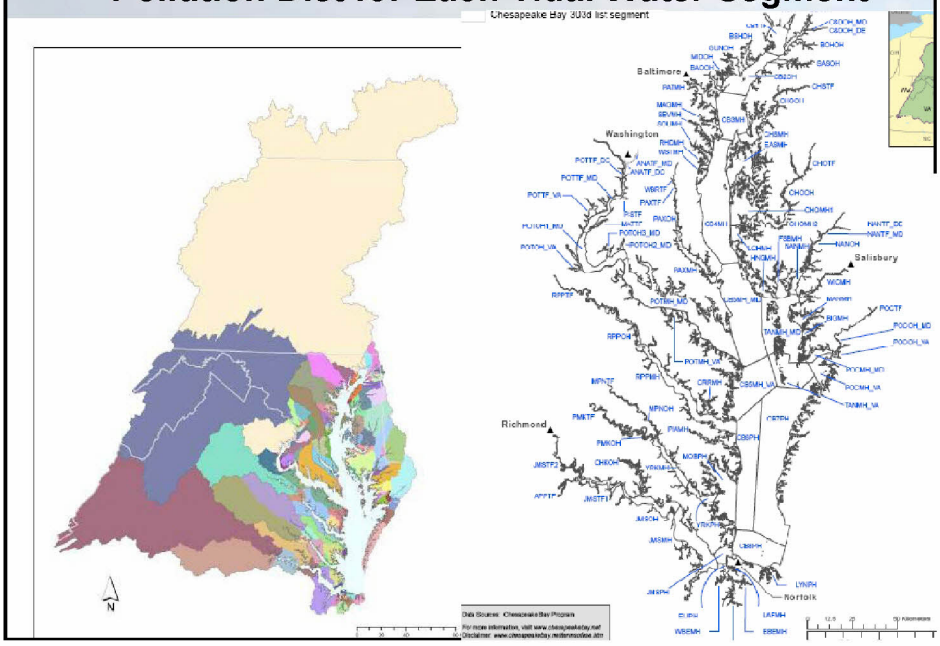


All scenarios run through Phase 5.2 Watershed Model

Target Load Refinements

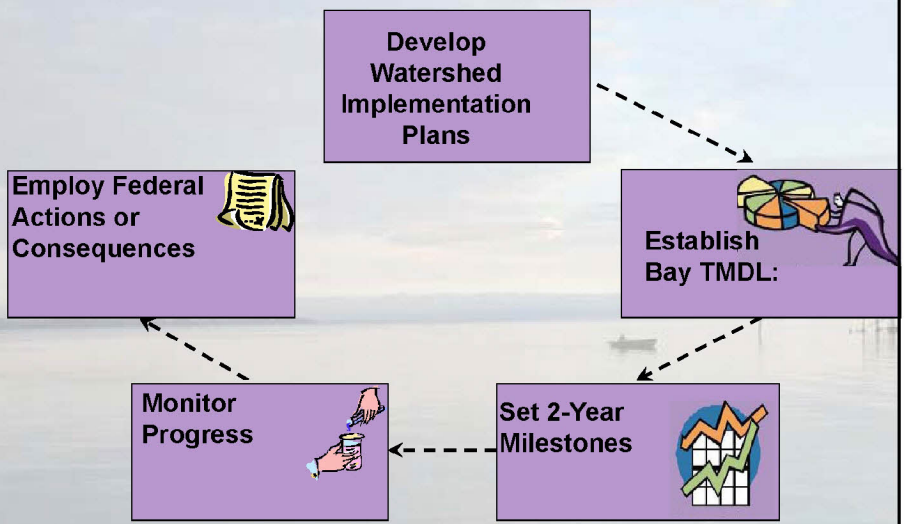
- If States' Bay Water Quality Standards can still be achieved…
  - The State may exchange nitrogen and phosphorus target loads within a basin; and/or
  - The State may exchange nitrogen and phosphorus loads from one basin to another within the State.

Pollution Diet for Each Tidal Water Segment

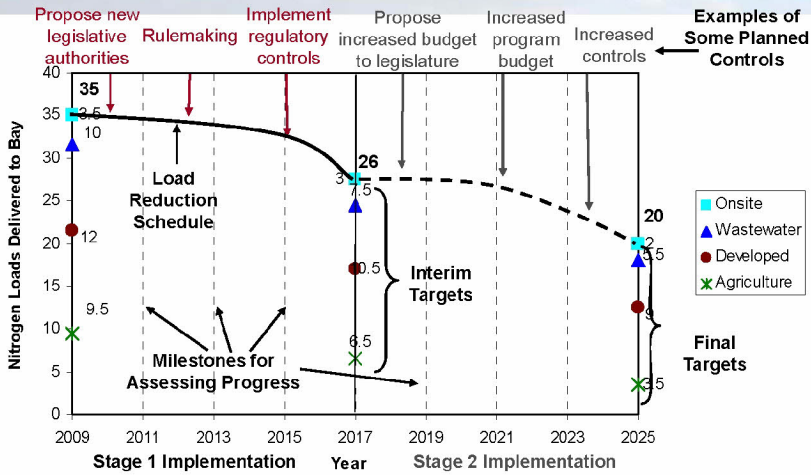


The Chesapeake Bay Performance and Accountability System

Mandatory Pollution Diet at Work



Example: Projected Nitrogen Delivery from Major Basin in Each Jurisdiction by Source Sector



- Also divide jurisdiction load by 303(d) segment drainage area and, by November 2011, local area
- Attain jurisdiction-wide load reductions by the interim target, or justify why can still meet final target
- Jurisdiction would determine desired 2-year schedule to meet interim and final target loads
- EPA first evaluates milestones based on consistency with jurisdiction target load. EPA accepts shifts among source sectors, basins, segment drainages, and local areas if jurisdiction target load is met and local and Bay water quality goals are achieved

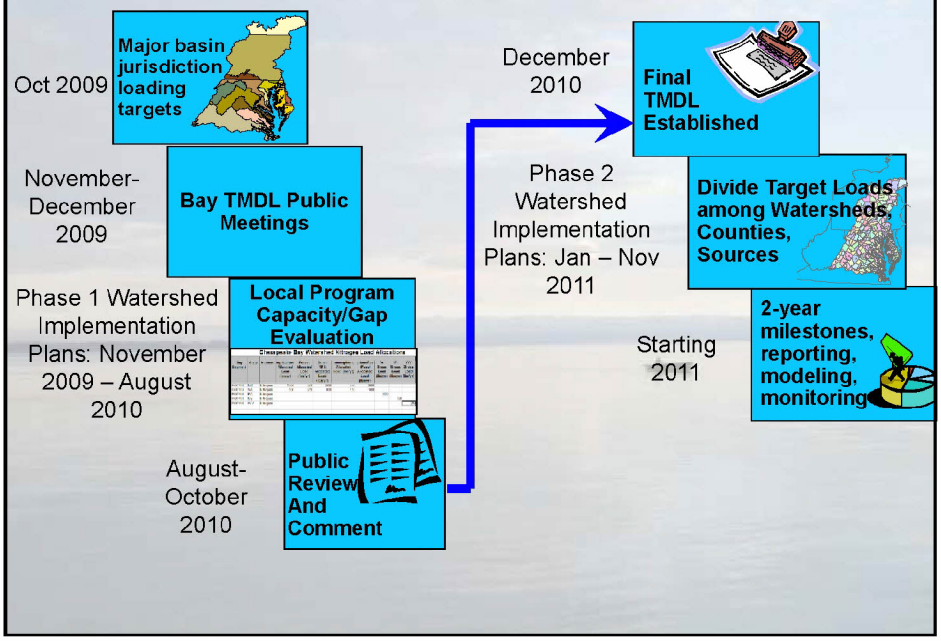
Federal Consequences

- Directed at states not achieving expectations
- Will be outlined in an EPA letter this fall. May include:
  - Assigning more stringent pollution reductions to regulated point sources (e.g., wastewater, stormwater, CAFOs)
  - Objecting to state-issued NPDES permits
  - Limiting or prohibiting new or expanded discharges (e.g., wastewater, stormwater) of nutrients and sediment
  - Withholding, conditioning or reallocating federal grant funds

Bay TMDL- Presidential Executive Order Connections

- Create Federal Leadership Committee
- Create the Performance and Accountability Framework
- Expand regulatory tools for CAFO's and urban and suburban runoff
- Improve nutrient and sediment controls on federal lands and roads
- Target farm conservation measures at high priority areas

Your Role in Bay TMDL Process



Bay TMDL: Bottom-line

- Actions will clean and protect local waters in VA thereby supporting the local economy
- Restore a thriving Chesapeake Bay
- Federal, state, local officials and agencies will be fully accountable to the public
- Consequences for inaction, lack of progress

Further Information

- Chesapeake Bay TMDL web site
  www.epa.gov/chesapeakebaytmdl
- U.S. EPA Region 3 Contacts
  - Water Protection Division
    - Bob Koroncai
      - 215-814-5730; koroncai.robert@epa.gov
    - Jennifer Sincock (sincock.jennifer@epa.gov)
  - Chesapeake Bay Program Office
    - Rich Batiuk
      - 410-267-5731; batiuk.richard@epa.gov
    - Katherine Antos (antos.katherine@epa.gov)

Virginia's Approach to Developing the Chesapeake Bay TMDL Watershed Implementation Plan

Department of Conservation and Recreation
Department of Environmental Quality
Secretary of Natural Resources
Commonwealth of Virginia

December 2009

A Challenged Bay

- Loss of shellfish and finfish
- Habitat loss
- Annual dead zones
- Poor water clarity

Successes to Date

- Much has been done using voluntary, incentive based, and regulatory programs
- 1985 Loads
  - 102 million pounds Nitrogen
  - 12.4 million pounds Phosphorus
- 2008 Estimated Loads
  - 72.8 million pounds Nitrogen
  - 7.2 million pounds Phosphorus





The Challenge Ahead

- To meet water quality standards in the Chesapeake Bay and its tidal rivers, **there is more to do**
- Low hanging fruit – mostly gone
- Future reductions will be harder
- We all have a role

What We Need to Achieve (and Maintain)

Virginia Bay Draft Initial Target Loads

- 59.2 million pounds Nitrogen
- 7.05 million pounds Phosphorus
- These targets are very likely to change

Load Uncertainties

- Initial draft target loads provided by EPA based on dissolved oxygen **only**
- Impacts on target loads from water quality standards for bay grasses, water clarity and other localized issues not yet determined
- Will be spring 2010 before target loads are adjusted for these factors

Vision for Virginia's Watershed Implementation Plan

- Focuses on "how" as well as the "how much"
- Equity between sectors
- Is relevant locally
- Uses adaptive management

Actively engage stakeholders and the public

- Virginia Bay TMDL Webinar (October 2009)
- Initial EPA Public Meetings (December 2009)
- Go to Individual stakeholder meetings (2010)
- Stakeholder Advisory Group (early 2010)
- Use Interactive web-based tools (Ongoing)
- EPA Public Comment Period (Aug. – Oct. 2010)
- Additional outreach as necessary

A Challenging Timeframe

EPA deadlines:

Phase I – Draft allocations and state strategies

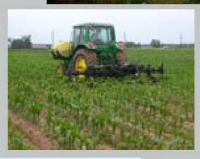
- June 1, 2010 - Preliminary phase I plan by source sector and impaired segment drainage area
- August 1, 2010 – Draft phase I plan
- November 1, 2010 – Final phase I plan

Phase II – Local target loads and action plans

- June 1, 2011 – Draft phase II plan
- November 1, 2011 – Final phase II plan submitted to EPA

Phase I – Draft Allocations by Source Sector and State Strategies

- State staff to consult with sector experts, then staff will develop projected BMP coverage levels
- Draft reviewed and refined following input by Stakeholder Group
- Used to derive potential nutrient and sediment load reductions and develop State strategies



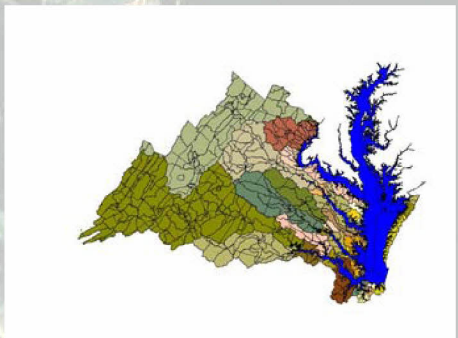
Phase I – Draft Allocations by Source Sector and State Strategies

Source Sectors

- Municipal and Industrial Wastewater
- Non-Significant Wastewater
- Municipal Combined Sewer Overflows [3 systems in VA]
- Industrial Stormwater
- Construction Stormwater
- MS4 Stormwater
- Non-MS4 Stormwater
- Confined Animal Feeding Operations (CAFOs)
- Agriculture – non CAFO
- Forest
- Atmospheric
- Onsite / septic systems

Phase I – Draft Allocations Made to Individual Watershed Segments

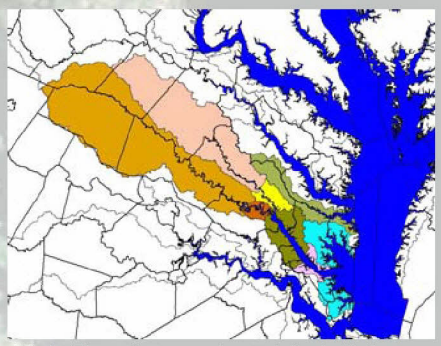
- State agency staff will distribute the allowable loads into the various impaired segments and among the various sources
- Land use data (cropland, developed land, etc.) along with BMP coverage projections and resulting load reductions will be used
- Draft reviewed and refined following input by Stakeholder Group



Virginia's 35 Bay Watershed Segments

Phase II - Local Target Loads and Action Plans

- Will work closely with local stakeholders to identify specific controls and practices to be implemented
- Agencies will initiate work later in 2010
- Due by November 2011



York River Segments and Jurisdictions

2-Year Milestone Process

- Biennial Milestones –Use adaptive management; identify specific actions needed to maintain schedule
- Continue to engage stakeholders and public
- Monitor and evaluate progress
- Next milestone period – January 1, 2012 to December 31, 2013 to be completed with phase II plan

Want to find out more?

EPA

http://www.epa.gov/chesapeakebaytmdl/

VA-DEQ

http://www.deq.virginia.gov/tmdl/chesapeakebay.html

VA-DCR

http://www.dcr.virginia.gov/soil_and_water/baytmdl.shtml

Questions & Comments

Thank you for your participation.

That concludes today's meeting.

Questions Answered

Questions Answered (in the order in which they were asked):

Note: The letter indicates the source of each question. An "A" indicates that the question was submitted by the live audience. The cards were pre-numbered to easily identify the question once they were submitted. These questions are in the order in which they were asked. Some questions were rewritten for clarity.

A12: Are there any plans to better track reductions from agriculture? Voluntary BMPs are very numerous and we don't believe they are being accurately being tracked. Will federal cost-share practice reductions be tracked?

A3a: How will the EPA ensure that the pollution models accurately reflect the various sources of pollution to the Bay and not over or under estimate any given source?

A19a: Will TMDLs affect existing NPDES permits or new NPDES permits? (Dirk Bouma)

A26b: Opposition often arises when redeveloping urban areas into higher density. Will enforcement actions result in moratoriums on development and redevelopment in existing urban and suburban areas? Force people into sprawl?

A10: What are the criteria for EPA to determine if the Commonwealth of Virginia's "implementation plan" is acceptable or unacceptable? What happens if an acceptable plan is not approved by EPA by the deadlines for compliance with the consent order? (Charles Grymes, Prince William Conservation Alliance)

A29: Virginia is currently losing 26,000 acres of forest per year. What role do you see for conservation of the forest land base in the TMDL?

A21b, c: What models/information was used to develop the TMDL? Was the information used verified to be reflective of on-farm reality? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A40: Weather plays a dominant role in sediment release. A year with five 10-year storms will result in much more sediment release than a year with none, regardless of sediment control measures. Is weather/rainfall being factored into the TMDLs? Otherwise I feel that the metrics will not accurately match the TMDL control tactics. (Kris Unger, Lands & Waters)

A17: My local government is increasing the sanitary sewer rates by 10-15% per year to remove nitrogen. Then they started charging me an annual fee for stormwater. How much will this cost me? Are there any estimates of what my local government will have to charge me?

A36: How will EPA and Virginia work with federal entities such as Fort Belvoir to achieve load reductions?

A9: What regulatory authority does EPA have over stormwater? If NPDES, given that the program was established in the 1990s with a promise that there could be no numeric limits? How do EPA and the states intend to prove that a MS4 operator either did or did not meet the assigned load limits?

A95: Can a point source facility in Virginia buy pounds from a facility in another state? Can you please explain how this would work?

A94: How will these new TMDLs work with the TMDLs already developed by the states and the stream management plans we have been working on in Fairfax County?

A2a: How do you believe the recent court decision that essentially puts a moratorium on new NPDES permit approvals to impaired waters will affect the Chesapeake Bay TMDL determination process?

A91: Where is the money coming from for the State Surface Monitoring Programs? Is this an unfunded mandate from EPA to the states?

Questions Submitted

Questions Submitted (but not answered):

A3b: How will the EPA take into account the changes in farming techniques that have taken place over the past 20-30 years that haven't been a part of a cost-share or tax credit BMP program? Example, no till farming or cover crops implemented without program funds.

A3c: How will the Bay TMDL address stormwater runoff from residential developments, the fastest growing contributor of sediment and nutrients?

A19b: Some states have implemented no discharge zones for vessels that are now regulated under the vessel general permit. Will this be the case for states around the Chesapeake Bay? (Dirk Bouma)

A26a: Retrofitting in Fairfax County equates to a 15% increase in annual local tax burden (in addition to what we pay in stormwater fees and sewer rates) on county residents. Rising costs may drive people out of urban areas, especially when combined with steeply increasing sewer rates. Is this the best investment of tax payer dollars? Any comments on how this moves towards sprawl?

A21a: How are TMDLs being developed? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21d: What stakeholders were involved in establishing the nutrient and sediment limits? Were there any agricultural representatives involved? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21e: Sediment control and soil quality are important for agricultural production. When can we expect to have sediment limits set? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21f: Why is the process being accelerated when the court order allowed for an extra year? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21g: Why are we expected to meet a two year milestone in 2011 when most of the time will be spent in developing the TMDL and an implementation plan? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21h: When will compliance begin and when will full compliance by agriculture be expected? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21i: What are the consequences for failure to develop the TMDL? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21j: What are the consequences for failure to comply with a TMDL plan? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A21k: What is the next step for agriculture and others if a TMDL is not met in a specific basin and/or watershed? (James S. Turpin, Democracy Vineyards, Virginia Agribusiness Council)

A2b: What process or model does EPA use to determine improvements in nonpoint source discharges?

A89: Is forestry represented on the Virginia stakeholder group (either forest landowners or forest products)?

A20: Let us test water. If we get bad readings, then send out professional testers.

A32: The presentation sets forth the target loads for the various states. For example, Pennsylvania has a target load of 73.64 million pounds of nitrogen a year and 3.16 million pounds of phosphorus a year. How is state compliance with the loads determined? For example, is the 73.64 million pounds of nitrogen for Pennsylvania actually pounds that reach the Chesapeake Bay? If only 75% of the pounds from a state reach the Chesapeake Bay can the state adjust its numbers upward to account for such attenuation?

A18: Are the target loads developed while considering future development (urbanization, increase of water use, etc.)? If yes, by how many years (20-years, 50-years) down the road?

A88: What is the baseline from which reductions will be measured? Example: Pollution level in 1700 or 1800 or 2010?

A34: How will you account for and give credit for the many voluntary (nm-regulated) private and public-private measures that reduce nitrogen, phosphorus, and sediment? For example: 1.) a large private lake that traps large amounts of sediment (and phosphorus) which is routinely dredged (Lake Barcroft; PL-566 Lakes). 2.) Voluntary compliance with implementation of soil and water conservation plans on small agricultural operations – specifically small horse keeping operations (10-50 acres) that do not participate in cost-share and require innovative strategies (Ag BMPs) to manage these intensely used lands. 3.) Effective community education programs to raise awareness and prevent pollution such as storm drain marking and education programs which has directly educated 1/5 of the households in a county. 4.) Privately funded restored stream segments (750' and 2000') restored using natural channel design – now stable and eroding streambanks (sediment and phosphorus) arrested. 5.) Voluntary (individuals, HOAs, Parks, etc.) less than 10 – e.g. rain gardens, riparian buffers, etc. (Diane Hoffman, NVSWCD)

A92: I read in a local Fairfax County Paper that there was a plan to install meters on households to monitor the amount of pollutants in the run-off and if it was excessive, fines would be levied. Is this going to be in all areas or only select locations?

A38: In Northern Virginia, projects are being rushed to reduce flooding before new EPA guidelines are being implemented in 2011.

A15: Are Virginia counties willing to assess and enforce deeded conservation zones on small (1/4 – 5 acres) properties? Many homeowners ignore these in their yards – clearing small shrubs, etc. and placing grass.

A96: What is this going to cost tax payers? Where will it come from? LID regulations will impact new development. How will this affect development? Who will manage nutrient offset credits and determine

pricing? There is a current list of TMDLs on impaired streams that have not been implemented. When will these be released – or are they going to be revised? For rural residential septics, there are several measures to be applied – replacement, pump out, and others. When public sanitary sewer systems are available, would that be a better solution to septic systems, especially when in close proximity to streams/creeks? Would conversion from septic to public wastewater treatment be cost shared under TMDL?

A24: Dominion Power has a 100 foot casement over the creek flowing in back of our yard. They have sprayed herbicides in the past and reserve the right to do that in the future. Is that legal? Are you going to stop this or at least regulate the herbicide? (Leslie Gelman)

A23: I live downstream from the WFC S&I yard. The creek runs on our property. They are currently applying for a zoning exception to expand the yard. Reading the staff report (appendix 14) apparently in the event of a spillage, they may spill the following substances: antifreeze, gasoline, diesel, windshield washer fluid, and water treatment chemical and heating oil. How can I test for this? Is this legal? (Leslie Gelman)

A1: The stream that runs on our property runs above a Fairfax County sewer. According to the EIs for the Metro-to-Dulles project, they found an excess of coliform bacteria in the Pimmit Run streams (my stream is a tributary). How can I either get this periodically tested, test is myself or get it fixed if the sewer is leaking? (Leslie Gelman)

A22: How does "restoring" a stream by either straightening the course, widening or moving the channel/putting down coarse gravel, and cutting down all the trees around the creek and planting grasses affect the Chesapeake Bay? That is the stormwater management plan proposed as part of the WFC Rail Yard expansion. (Leslie Gelman)

A39: Out of the stakeholders, what are the percentages of each contributing to nitrogen and phosphorus pollution in the Bay?

Comments

The comments below have been paraphrased and are not a full transcription.

A26 comment: More attention needs to be given to potential unintended consequences of the Bay TMDL. Science and engineering need to be developed by Federal government, need consistent regulations, clear expectations, and funding, funding, funding! Remember that much of the Bay watershed was developed under different regulations. Do not use MS4 permits as punishment for meeting previous regulations! Please do not set up local governments for failure! Also, EPA has a history of not meeting anticipated deadlines for outlining what "we" have to do. The August 15, 2010 dealing for a draft TMDL is suspect. Will there really be a TMDL deadline for EPA? Localities need info sooner rather than later. (Penny Gross)

Penny Gross – Fairfax County Board of Supervisors: Speaking on behalf of Fairfax County, more attention needs to be paid to unintended consequences of the TMDL. There needs to be consistent, clear expectations and funding, funding, funding for this effort. Much of the Bay was developed under different regulations, and the regulations of that time were followed. Don't use MS4 permits to be a punishment. Please do not set up local governments for failure.

Bryant
Brian Thomas

Pollution of stream behind 2113 McKay Street

From: **leslie gelman**
Sent: Mon 11/30/09 8:44 PM
To:

Hi Mike,

We live downstream from the West Falls Church Metro Station Service & Inspection (S&I) Rail Yard. They have filed a special exception application (SEA) SEA-85-D-033-02 to expand the yard to accommodate the new Silver Line (they did have other options). Fairfax County produced a staff report, which had an appendix 14: Consolidated Plan for: 1) Hazardous waste contingency plan, 2) spill prevention, control, and countermeasures plan, and 3) a stormwater pollution prevention plan. When I read it, I wrote an email in April, 2009, to Supervisor Foust's office (Joe Gibson, now retired)and the Fairfax County Staff (St. Clair Williams). asking questions about some of the things I read in the report. When I got to Appendix 14, I asked the following questions:

Appendix 14: Consolidated Plan

Paragraph 4.3 – Potential Spill Sources. According to this plan, "Spills from potential pollutant sources outside the buildings will be contained and absorbed using absorbent pads/booms **or may be captured by the storm sewer system, which discharges to the on-site storm water management pond.**" The paragraph then goes on to say that "Potential pollutant sources from outside the buildings include fueling operations (antifreeze, gasoline, and diesel dispensers) and storage tanks. In accompanying charts, the contents of above ground storage containers (Table 4-4) include: used oil, propylene glycol, diesel fuel, arca shock mix detergent, windshield washer fluid, and water treatment chemical. Underground storage tank contents include (Table 4-2) diesel, gasoline, and heating oil. How is it acceptable to plan that such pollutants, in the event of spillage, simply be released into the storm management pond? From the pond, they flow into the downstream creek, Pimmit Run, and pollute Pimmit Run, the Potomac River, and the Chesapeake Bay!

Paragraph 4.5 – Storm Water Sampling Information. Given that it is planned that spills could wind up in the storm water pond, periodic storm water sampling should be REQUIRED by VDEQ. What is the justification for NOT REQUIRING it?

Paragraph 4.7 – Wastewater Pretreatment. This paragraph states that "The parts washer wastewater is currently being disposed of off-site as non-hazardous waste by a contractor." How are they disposing of it? Here on McKay Street, we can detect the odor of what we think is wash fluid in the creek abutting McKay Street. Are they dumping it into the stream?

o one answered my questions in writing. Joe Gibson, who has been replaced by Benjamin Wiles, answered orally that he thought this Appendix was outdated and the Staff Report needed to be revised. Fast forward to December: the staff report has not been revised, last time I checked, and

ıite possibly reflects exactly what they're doing. I asked similar questions of Ben Wiles recently. No answer yet.

I would like to find out if WMATA is polluting by testing the water. How would I get that done? We talked to VDCR back in May, 2009. They do not trust anyone else to test the water but themselves, and they don't have enough testers to send anyone up here to test it!

Can you help? Or do you know anyone who can help? Are there commercial chemists who will do testing? Are there groups interested in controlling pollution (this creek is part of a Chesapeake Bay Preservation Area) that can help?

It has been proposed that our stream be moved a short distance to allow for better storm water management. This would lead to the felling of many trees over 40 years old and potentially increase the amount of water in the flood plain on our property.

Our address is . You are invited here anytime, whether to check out hike possibilities or just to talk. Thanks in advance for your help.

ɜgards,

12/14/2009